

EXHIBIT C

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 MARSHALL DIVISION
4 ENTROPIC COMMUNICATIONS, LLC,)
5 PLAINTIFF,) (CIVIL ACTION NO.
6) (2:22-CV-125-JRG
7 VS.) (MARSHALL, TEXAS
8) ()
9 CHARTER COMMUNICATIONS, INC.,) (JUNE 13, 2023
10 DEFENDANT.) (9:02 A.M.
11
12 CLAIM CONSTRUCTION HEARING
13 BEFORE THE HONORABLE RODNEY GILSTRAP
14 UNITED STATES CHIEF DISTRICT JUDGE
15
16 FOR THE PLAINTIFF: Mr. James A. Shimota
17 Ms. Katherine L. Allor
18 Mr. Jason A. Engel
K&L Gates, LLP
70 West Madison Street
Suite 3100
Chicago, IL 60602
19
20 COURT REPORTER: Ms. Shelly Holmes, CSR, TCRR
Official Court Reporter
Honorable Robert W. Schroeder III
United States District Judge
Eastern District of Texas
Texarkana Division
500 North State Line Avenue
Texarkana, TX 75501
shelly_holmes@txed.uscourts.gov
21
22
23
24
25 (Proceedings recorded by mechanical stenography, transcript
produced on a CAT system.)

1 FOR THE PLAINTIFF: Mr. Kenneth H. Bridges
2 Bridges IP Consulting
2113 19th Avenue S
Nashville, TN 37212
3
4 Mr. Matthew A. Blair
5 K&L Gates, LLP
2801 Via Fortuna
Suite 650
Austin, TX 78746
6
7 Mr. Connor J. Meggs
K&L Gates, LLP
10100 Santa Monica Boulevard
8th Floor
Los Angeles, CA 90067
8
9
10 Mr. J. Wesley Hill
Ward, Smith & Hill, PLLC
1507 Bill Owens Parkway
Longview, TX 75604
11
12
13 FOR THE DEFENDANT: Mr. David S. Benyacar
14 Kaye Scholer
425 Park Avenue
New York, NY 10022
15
16 Mr. Deron R. Dacus
The Dacus Firm, PC
821 ESE Loop 323
Suite 430
17 Tyler, TX 75701
18
19
20
21
22
23
24
25

10:39:26 1 MR. ENGEL: Yeah.

10:39:27 2 THE COURT: -- "data processor," "channelizer"?

10:39:31 3 MR. ENGEL: That is correct. And the -- we're on

10:39:37 4 Slide 33 of our presentation.

10:39:40 5 If I could have the next slide, please. I'm

10:39:43 6 sorry. Slide 34, please.

10:39:46 7 So I think this gets down to the heart of the

10:39:52 8 dispute because we're not entirely sure what is being

10:39:56 9 proposed by Charter. Their construction is three separate

10:40:01 10 pieces of hardware configured to perform the functions the

10:40:04 11 claim ascribes to the signal monitor, data processor, and

10:40:10 12 channelizer, respectively.

10:40:11 13 Now, they've cited case law that talks about

10:40:13 14 distinctness, and I think distinctness is, you know, a

10:40:16 15 degree of something that could be put to the jury to decide

10:40:19 16 or put to the -- you know, the factfinder to decide.

10:40:23 17 But when you're saying that it's three separate

10:40:25 18 pieces of hardware, Charter seems to be implying that you

10:40:29 19 could not have some type of, you know, single integrated

10:40:33 20 circuit or single silicon die that has those three, you

10:40:39 21 know, functional blocks or components. They can still be

10:40:43 22 distinct if they're on the same integrated circuit.

10:40:46 23 And that's what we pointed to at the '008 patent,

10:40:48 24 Column 4, Lines 51 to 62. It says: The various modules of

10:40:52 25 the subassembly 174 -- which includes the channelizer, the

10:40:56 1 signal monitor, and the data processor -- may reside in one
10:41:00 2 or more housings on one or more printed circuit boards
10:41:03 3 and/or one or more integrated circuits, e.g., one or more
10:41:08 4 silicon dice.

10:41:09 5 So if you have one integrated circuit that
10:41:12 6 includes those three components, that clearly should meet
10:41:15 7 the claim as set forth in the specification, but this
10:41:17 8 requirement that they be separate hardware units, I think,
10:41:20 9 is reading something into the claim language and is going
10:41:23 10 to be a little bit confusing down the road to say what's
10:41:27 11 separate hardware.

10:41:27 12 Again, I believe the case law they cited is
10:41:30 13 distinct, and I think we agree that there's argument as to
10:41:34 14 what's going to be distinct when we identify things for
10:41:37 15 infringement down the road. But requiring that it be three
10:41:39 16 separate pieces of hardware, I think, is reading
10:41:42 17 limitations into the claim.

10:41:43 18 THE COURT: All right. Let me hear from the
10:41:47 19 Defendant, please. What's Charter's position on this,
10:42:04 20 Counsel?

10:42:05 21 MR. BENYACAR: Charter's position on this, Your
10:42:06 22 Honor, is that they have to be three separate pieces of
10:42:09 23 hardware, three distinct structural elements, however you
10:42:13 24 want to say it.

10:42:14 25 The reason for that is they're called out

10:42:18 1 separately in the claim. As I show on Slide 52, it's a
10:42:25 2 signal monitor, a data processor, and a channelizer.
10:42:28 3 And the law is clear, and this is the law that
10:42:30 4 counsel was pointing to, if you list elements separately,
10:42:35 5 they're presumed to be distinct components, distinct
10:42:40 6 structural elements.

10:42:41 7 And by the way, as the Federal Circuit said in the
10:42:49 8 Kyocera case, even if you disclose different embodiments,
10:42:53 9 one where they're combined and one where they're separate,
10:42:58 10 you're free to claim the one where they're separate.

10:43:00 11 Here, there is no embodiment disclosed where
10:43:04 12 they're combined. But there is a presumption, if you call
10:43:08 13 them out separately, that they're distinct structural
10:43:11 14 elements. That is our position. Our position is not just
10:43:14 15 relying on the presumption that they're distinct structural
10:43:17 16 elements, but there is no way to understand the
10:43:20 17 specification or the claims unless they're distinct
10:43:24 18 structural elements.

10:43:25 19 THE COURT: How do you get away from the problem
10:43:28 20 you can say on the one hand, there's three separate
10:43:31 21 components, on the other hand, there's one component with
10:43:36 22 three different subparts? I mean, how do you -- how do you
10:43:40 23 not just go down the pyramid far enough to where you have
10:43:45 24 all these functions within one component, even though
10:43:49 25 you're calling them separate things?

10:43:51 1 MR. BENYACAR: So we're not saying that you can't
10:43:53 2 have discreet structural elements on some bigger device.
10:43:58 3 We're not -- we're not saying that.

10:43:59 4 But it can't just all be, well, it's one
10:44:03 5 processor, and it's just performing different functions,
10:44:05 6 for example. If you have distinct pieces of hardware all
10:44:09 7 on the same chip that sends information to each other,
10:44:12 8 we're not saying that that's not covered. But they have to
10:44:14 9 be distinct hardware, distinct structural elements.

10:44:17 10 If they're on some bigger thing, that's okay.
10:44:20 11 That's not our argument. But the only way the
10:44:23 12 specification and claims make sense is if they're different
10:44:27 13 hardware and if they're different --

10:44:29 14 THE COURT: So are we back to talking about
10:44:32 15 physical separation versus functional separation?

10:44:36 16 MR. BENYACAR: So functional separation, yes. In
10:44:38 17 this particular case, it has to be physical separation.
10:44:41 18 One, because the claim -- the case law we just looked at
10:44:43 19 says distinct structural components; and, number two, is,
10:44:49 20 as I'm about to talk about, there's no way to understand
10:44:51 21 the specification or the claims unless they're distinct
10:44:53 22 structural claims.

10:44:57 23 The claims show -- I mean, I'm sorry, the figure
10:44:59 24 shows the channelizer, the monitor, and the data processor
10:45:04 25 in Figure 1B. Now, you can look at Figure 1B and say,

12:50:24

1

CERTIFICATION

2

I HEREBY CERTIFY that the foregoing is a true and
correct transcript from the stenographic notes of the
proceedings in the above-entitled matter to the best of my
ability.

7

8

9 /S/ Shelly Holmes _____
10 SHELLY HOLMES, CSR, TCRR
11 CERTIFIED SHORTHAND REPORTER
12 State of Texas No.: 7804
13 Expiration Date: 10/31/2023

6/27/2023
Date

12

13

14

15

16

17

18

19

20

21

22

23

24

25